

# SENATE BILL REPORT

## SB 6334

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As of January 28, 2018

**Title:** An act relating to implementation of mandatory provisions of the federal rule on flexibility, efficiency, and modernization in child support enforcement programs regarding health care coverage.

**Brief Description:** Concerning implementation of mandatory provisions of the federal rule on flexibility, efficiency, and modernization in child support enforcement programs regarding health care coverage.

**Sponsors:** Senators Dhingra, Angel and Darneille; by request of Department of Social and Health Services.

**Brief History:**

**Committee Activity:** Law & Justice: 1/25/18.

### Brief Summary of Bill

- Revises provisions governing a parent's obligation to provide medical support for a child under a child support order, including by allowing a parent to meet the obligation by enrolling the child in public health care coverage.
- Requires an employer or other business that has received an income withholding order from the Department of Social and Health Services (DSHS), for payment to the Washington State support registry, to remit payments through electronic funds transfer when certain conditions apply.
- Authorizes the Division of Child Support (DCS) to issue a notice of noncompliance to a business, employer, or payroll processor if DCS believes the parent is not complying with support payment conditions.
- Adopts a new economic table for child support obligations that no longer differentiates amounts based on the children's ages.
- Clarifies the self-support reserve limitation on the amount of child support ordered.

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### SENATE COMMITTEE ON LAW & JUSTICE

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Tim Ford (786-7423)

**Background:** Health Insurance Coverage. Child support orders must require both parents to provide medical support for any child named in the order. Medical support includes health insurance coverage and cash medical support. Health insurance coverage does not include coverage under Medicaid. Cash medical support consists of a parent's monthly payment toward the premium paid for coverage by either the other parent or the state and a parent's proportionate share of uninsured medical expenses. Both parents share the obligation to provide medical support for the child.

A parent ordered to provide health insurance coverage may comply with that requirement by providing coverage: through private insurance, or through an employer or union if the cost of the coverage does not exceed 25 percent of that parent's basic child support obligation. If both parents have available health insurance coverage that is accessible to the child, the court may order the parent with better coverage to provide the health insurance coverage for the child and the other parent to pay a monthly payment toward the premium.

Parties to the order may seek enforcement of a medical support obligation on their own through superior court or may apply to the Department of Social and Health Services (DSHS) for enforcement services. DSHS may enforce an obligation to provide health insurance by issuing a support notice to the obligated parent's employer. If health insurance is available, the employer must enroll the child in the plan and withhold the premiums from the parents' pay.

Federal law requires states to have an approved child support program as a condition of receiving federal funds for various programs. As part of their program, states are required to take steps to ensure that health care coverage is provided for a child under a support order if coverage is accessible to the parent and can be obtained for the child at a reasonable cost. Federal rules governing medical support requirements were recently revised to provide that health care coverage includes public health care coverage in addition to private health insurance.

Employer Reporting Required to Enforce Child Support Obligations. All employers doing business in Washington State must report to the Washington State Support Registry (Registry) within 20 days when the business hires or rehires a person for employment. The reports must include the employee's name, address, social security number, and date of birth. The DSHS transmits the information to the National Directory of New Hires for purposes of enforcing child support obligations.

DCS may serve an employer with a notice of payroll deduction for child support obligations. An employer is liable to the Registry for noncompliance if the employer fails or refuses to deduct and promptly remit the required child support payments. The DCS may issue a notice of noncompliance to any person, firm, entity, or agency of state or federal government that the division believes is not complying with a notice of payroll deduction. The liability asserted by DCS in the notice of noncompliance becomes final and collectible on the twenty-first day after the date of service unless the employer requests a hearing with DCS, negotiates an alternate resolution with DCS, or initiates an action in superior court to contest the notice of noncompliance. DCS may bring an enforcement action against the employer for

noncompliance in superior court and may be awarded costs, attorney fees, and interest on the payments.

Child Support Workgroup. Every four years, the Division of Child Support must convene a workgroup to review the state's child support laws. This process was established by the Legislature to comply with federal requirements that states conduct quadrennial reviews of their child support laws.

The final report of the 2011 Child Support Workgroup (Workgroup) contains recommendations regarding:

- adopting a new economic table based on more current data developed by an economist at the request of the Workgroup;
- adjusting child support if the parents have children not before the court;
- adjusting child support for parents with a shared residential schedule;
- providing more guidance on postsecondary educational support; and
- clarifying the statute on self-support reserve.

In addition to making recommendations related to a residential schedule deviation, the final report of the 2015 Workgroup endorsed two recommendations of the 2011 Workgroup:

- the revised economic table should be adopted; and
- the language regarding the self-support reserve should be clarified to say that, no matter how many people resided in each household, the self-support reserve is based on 125 percent of the federal poverty level for a one-person household.

Establishing Child Support Obligation. Child support obligations are established through the court or with an administrative law judge. The amount of child support is determined using the statutory child support schedule, which includes the economic table and the child support worksheets developed by the Administrative Office of the Courts. First, the combined monthly net income (CMNI) of the parents is determined. Second, the economic table is used to determine the basic support obligation (BSO) based on the CMNI, the number of children before the court, and the ages of the children. The table has different amounts, in each income bracket, for children up to age 11 and children ages 12 to 18. Each parent's share of the BSO is determined by the parent's proportionate share of the CMNI. Adjustments may be made to the BSO, for factors such as medical support, daycare, and other special expenses, which results in a presumptive amount of child support called the standard calculation.

Self Support Reserve Limitations. The child support schedule includes low-income limitations that apply when a parent's net income is below, or would fall below, 125 percent of the federal poverty guideline. The basic support obligation, excluding health care, day care, and special child-rearing expenses, shall not reduce a parent's net income below this limitation. Exceptions to the low-income limitations apply for a presumptive minimum payment of \$50 per child per month or when it would be unjust when considering the best interests of the child and the circumstances of the parents. The references to 125 percent of the federal poverty guideline do not specify whether they are for a one-person family or more.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** Revised Obligations to Provide Medical Support in a Child Support Order. The definition of medical support is revised to include health care coverage, rather than health insurance coverage. Health care coverage may consist of health insurance coverage or public health care coverage. Public health care coverage means state-financed or federally-financed medical coverage, including coverage through DSHS and the Health Care Authority for children residing in Washington, and for children residing outside Washington, coverage through another state's agencies that administer state-purchased health care programs. Provisions indicating that health insurance coverage does not include public medical assistance are removed.

A child support order must include an obligation to provide health care coverage that is both accessible to all children named in the order and available at a reasonable cost to the obligated parent. The court must allocate the cost of health care coverage between the parents.

The child's receipt of public health care coverage may not be the sole basis for excusing a parent from providing health insurance coverage through an employer or union.

A parent who satisfies the obligation to provide health care coverage by enrolling the child in public health care coverage must also provide accessible health insurance coverage for the child if it is available at no cost to the parent through the parent's employer or union.

The fact that the custodial parent enrolled the child in public health care coverage does not satisfy the noncustodial parent's health care coverage obligation unless the order provides otherwise. A noncustodial parent may satisfy the health care coverage obligation by enrolling the child in accessible health insurance coverage of an employer or union if it is available for no more than 25 percent of the noncustodial parent's basic support obligation. If accessible health insurance coverage is not available through the noncustodial parent's employer or union, the noncustodial parent may satisfy the obligation by contributing a proportionate share of any premium paid by the custodial parent or the state for public health care coverage for the child.

Electronic Payments to DCS. An employer or other business that has received an income withholding order from DSHS requiring payment to the Washington State Support Registry must remit payments through electronic funds transfer under the following conditions:

- the income withholding order applies to an employee or contractor of the business, and the business has ten or more employees or the business has ten or more contractors;
- the income withholding order applies to more than one employee or contractor of the business, even if the employer or business has fewer than ten employees or contractors;
- the employer or business uses a payroll processor that has the capacity to transmit payments through electronic funds transfer; or
- the employer or business is required by the Department of Revenue to file and pay taxes electronically.

All electronic funds transfer payments must identify:

- the person from whom the payment was withheld;

- the amount of the payment;
- the person's ID number assigned by DCS; and
- the DCS case number to which the payment is applied.

DCS may issue a notice of noncompliance if a business, employer, or payroll processor fails to comply with a requirement to remit payments by electronic funds transfer. DSHS may waive the requirements under certain circumstances. The DCS may impose fines up to \$100 per occurrence for noncompliance with the duty to remit withheld funds by electronic funds transfer. DCS must provide written warning to the business, employer, or payroll processor prior to imposing fines. The written warning must:

- explain the duty to remit withheld payments by electronic means;
- explain the potential for fines for noncompliance; and
- provide a point of contact within DCS for seeking assistance.

DSHS has rulemaking authority for the purposes of compliance with the requirements of the bill.

Economic Table. The economic table developed for the Workgroup is adopted. The table does not differentiate amounts based on the children's ages.

Self Support Reserve Limitations. References to 125 percent of the federal poverty guideline in the statute establishing low-income limitations are clarified to refer to 125 percent of the federal poverty guideline for a one-person family.

**Appropriation:** None.

**Fiscal Note:** Requested on January 22, 2018.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Proposed Substitute:** PRO: This bill is designed to improve child support enforcement programs. It will expand the definition of medical support for child support to include both health insurance coverage or public health care coverage to ensure that children in Washington have health care coverage. This bill helps us comply with the federal requirements. This is a family friendly bill. As a condition of receiving federal funds we have a duty to comply with these new health care coverage requirements. The public policy is advantageous for our state.

**Persons Testifying:** PRO: Senator Manka Dhingra, Prime Sponsor; David Stillman, Assistant Secretary, Economic Services Administration, DSHS; Sharon Redmond, Policy Chief, Division of Child Support, DSHS.

**Persons Signed In To Testify But Not Testifying:** No one.